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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521-0640-02]

RIN 0648-XA858

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod total allowable catch (TAC) from catcher vessels using trawl gear and jig gear sectors to American Fisheries Act (AFA) trawl catcher/processors and catcher/processors using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 2011 TAC of Pacific cod to be harvested.

DATES: Effective [insert date of publication in the Federal Register], through 2400 hrs, Alaska local time (A.l.t.), December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation

and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The C season apportionment of the 2011 Pacific cod TAC specified for vessels using trawl gear in the BSAI is 5,458 metric tons (mt) for the period 1200 hrs, A.l.t., June 10, 2011, through 1200 hrs, A.l.t., November 1, 2011, as established by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011) and subsequent reallocation (76 FR 54137, August 31, 2011).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that trawl catcher vessels will not be able to harvest 2,500 mt of the C season apportionment of the 2011 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9). The Regional Administrator has determined that the projected unharvested amount is unlikely to be harvested by any of the other sectors described in § 679.20(a)(7)(iii)(A). On October 24, 2011, NMFS prohibited directed fishing for Pacific cod by vessels using pot gear in the BSAI to limit incidental catch of octopus (76 FR 66655, October 27, 2011). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions from the C season trawl catcher vessel apportionment 1,750 mt of Pacific cod to the B season apportionment for AFA trawl catcher/processors apportionment and 750 mt to the B season apportionment for catcher/processors using hook-and-line gear.

The C season apportionment of the 2011 Pacific cod TAC specified for jig gear in the BSAI is 570 mt for the period 1200 hrs, A.l.t., August 31, 2011, through 1200 hrs, A.l.t., December 31, 2011, as established by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011).

The Regional Administrator has determined that the jig gear sector will not be able to harvest 370 mt of the C season apportionment of the 2011 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(1). The Regional Administrator has determined that the projected unharvested amount is unlikely to be harvested by any of the other sectors described in § 679.20(a)(7)(iii)(A). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions from the C season jig gear apportionment 370 mt of Pacific cod to the B season apportionment for catcher/processors using hook-and-line gear.

The harvest specifications for Pacific cod included in the final 2011 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011) are revised as follows: 2,958 mt for catcher vessels using trawl gear and 200 mt for jig gear to the C season apportionments and 2,920 mt for AFA trawl catcher/processors and 49,499 mt for catcher/processors using hook-and-line gear to the B season apportionments.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from trawl catcher vessels and jig gear to AFA trawl catcher/processors and catcher/processors using hook-and-line gear. Since fisheries are currently open, it is

important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 1, 2011.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: December 6, 2011

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Steven Thur,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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